

MINUTES
TOWN OF MILLIKEN
TOWN BOARD OF TRUSTEES
Milliken Community Complex
May 10, 2006
7:00 p.m.

Attendance: Mayor Linda Measner, Mayor Pro Tem Janie Lichtfuss, Trustees Gary Frank, Milt Tokunaga, Ted Chavez, Julie Cozad and Peggy Wakeman. Also present were Town Engineer Larry Ketcham, Finance Director Diana Vasquez, Public Works Director and Co-interim Manager Mike Woodruff, Police Chief and Co-interim Manager Jim Burack, Senior Coordinator Lois Ann Onorato, Deputy Town Clerk Jessi Day, and Town Planner Danna Ortiz. Press and audience were also present. Town Attorney Bruce Fickel was absent.

REGULAR MEETING

Mayor Measner called the regular meeting to order at 7:04 p.m.

PLEDGE OF ALLEGIANCE

Mayor Measner led the audience in the Pledge of Allegiance.

ADDITIONS TO THE AGENDA

Co-interim Manager Mike Woodruff moved Item "f", Address Change at Milliken Middle School, to the Consent Agenda. He moved Item "e", Potential Water System Modifications to the end of the action agenda as an executive session item.

AUDIENCES WITH INDIVIDUALS

None.

REPORTS FROM BOARD MEMBERS REGARDING OTHER MEETINGS

Mayor Pro Tem Janie Lichtfuss attended the regular Milliken Housing Authority meeting in April. She and Senior Coordinator Lois Ann Onorato met with Hall Irwin regarding the Dove Valley groundbreaking ceremony to discuss details for that day. She reminded the Board that the ceremony will be on May 23, 2006, at 10:00 a.m. Mayor Pro Tem Lichtfuss also participated in a train ride with Senior Coordinator Onorato. The train traveled from Greeley to Nunn; railroad crossing safety was the focus of the train ride. Train personnel have local law enforcement on board to help enforce laws against motorists trying to beat the trains.

Trustee Julie Cozad attended the Front Range MPO meeting on May 4, 2006 in Loveland. Air emission quality and ozone levels along the Front Range are a concern of

the MPO. MPO will host a summit in Windsor on June 13; more information can be obtained from the MPO website regarding the summit. The MPO also has safety concerns at park and rides along I-25. \$340,000 has been allocated to, and matched by, MPO for improvements in Region 4, which includes the I-25 corridor from Highway 56 up to Fort Collins. Trustee Cozad informed the Board that MPO would like to schedule a work session with the Milliken Board within the next month.

Trustee Peggy Wakeman attended the Milliken Business Association meeting, and informed the Board that the MBA is moving forward with Milliken Madness Day. The event is scheduled for July 15, and there will be a car show, street dance and other activities. Trustee Wakeman indicated that the MBA will be requesting, event insurance for liability coverage through CIRSA for that day.

CONSENT AGENDA

Trustee Cozad pulled the List of Bills due to a question, and Mayor Pro Tem Lichtfuss pulled the meeting minutes due to corrections.

Motion to approve the Address Change at Milliken Middle School was made by Trustee Wakeman, and seconded by Trustee Cozad. No discussion followed.

Vote: All in favor none opposed. Motion carried.

Approval of List of Bills for May 10, 2006.

Discussion: Trustee Cozad asked about the charge for Canine Bed and Biscuit. She asked if the amount charged the Town was reimbursed by the pet owner. Chief Jim Burack informed the Board that the amount is not always reimbursed. If the pet owner does not come forward, the Town pays impound fee and a five-day boarding fee. After this point, the animal may be adopted, according to Town ordinance. If the pet owner does claim the animal, then the owner pays the boarding and impound fee.

Motion to approve the List of Bills for May 10, 2006 was made by Mayor Pro Tem Lichtfuss, seconded by Trustee Ted Chavez.

Vote: All in favor none opposed. Motion carried.

Approval of Minutes for April 26, 2006.

Discussion: Mayor Pro Tem Lichtfuss indicated that it was not she who voted no on the Remodel of the Youth Room; rather, it was Trustee Wakeman. She also asked that the notes on Resolution 06-09, A Resolution Concerning the Dove Valley Development, be clarified. Trustee Cozad also indicated a spelling correction for the name "Hall Irwin."

Motion to approve Minutes for April 26, 2006 was made by Mayor Pro Tem Lichtfuss and seconded by Trustee Chavez.

Vote: All in favor none opposed. Motion carried.

ACTION AGENDA

Peregrine Creek Cash-in-Lieu of Parkland Dedication

Town Planner Danna Ortiz presented Addendum “H” indicating the Dedication of Public Open Space by applicant Amy Star. The open space dedicated to the Town will be the wetland area, and the applicant agrees to maintain the trail throughout the Peregrine Creek subdivision, allowing public access to the trail system.

Applicant Amy Star stated she agrees with Addendum “H”, and thanked Planner Ortiz for all her hard work, cooperation and dedication to the Peregrine Creek project.

Motion to approve the Peregrine Creek Development Agreement with Addendum “H”, to accept Outlot A and trails shown on the Final Plat for the public open space dedication to the Town of Milliken, and with the condition that all supporting documentation for the development improvement costs be stamped by Amy Star’s engineer, was made by Trustee Tokunaga, and seconded by Trustee Gary Frank.

Vote: All in favor none opposed. Motion carried.

Platte Sand and Gravel Use by Special Review

Town Planner Ortiz informed the Board that since the February 22, 2006 public hearing, Platte Sand and Gravel has come before the Planning Commission on several occasions with revisions. The Planning Commission stated that they wanted to see significant improvement with the existing operation and compliance with Staff’s recommendations before approval of the Use by Special Review takes place.

Since the February hearing, the applicant has:

- Installed white noise back-up beepers on their trucks to reduce noise emanating from the site.
- Held two mediation meetings with the neighbors (no agreement was reached).
- Revised the site plan to include more site-specific information and added Staff’s recommended development standards to the map. The development standards that Platte Sand and Gravel committed to address wildlife, traffic, hours of operation, safety, noise, dust, vegetation, environmental issues, lights, building permits and compliance (refer to USR Map Plat Notes).
- Completed the shoulder-widening improvements on Weld County Road 38. The Road Maintenance and Improvements Agreement with Weld County requires the haul roads to be a minimum of 32’ wide. Mr. Pike reports that the average road width is now 34’.
- Installed a box culvert between Weld County Road 25 ½ and Highway 60.
- Met with Weld County and has agreed to post a \$900,000 bond (\$500,000 has been posted).

- Met with Weld County School District RE-I representatives and has agreed to work with Weld County to try to lower the posted speed limit and to post signs near the school bus stop and on-site warning drivers of the school bus route and stop.
- Met with Weld County Public Works Staff to develop a weed management plan (plan should be completed by mid-May).
- Prepared a landscape/berm plan for the site entrance.

Town Planner Ortiz also outlined various neighborhood concerns:

- The batch plants are incompatible with the surrounding rural neighborhood – they belong in an industrially-zoned area. Attorney Jay Cope believes that the batch plants are prohibited in the CD Zoning District and therefore, that the application must be denied. (Refer to his attached letter.) Please note: Town Attorney Bruce Fickel believes that the batch plants are legal accessory uses to the mining operation in this zone. However, we will clarify this during our update of the Land Use Code.
- Incompatible with the Milliken Comprehensive Plan which specifies the need for and preservation of less developed buffer zones for maintaining the quality of life for Town residents and rural neighbors.
- Inadequate protection of their health, safety and welfare. They are deeply concerned about dust control and abatement from concrete processing, increased heavy truck traffic; noise from plant operations; odors from asphalt processing; and protection from chemical contamination in well water supplies.
- The Town does not have adequate staff to monitor these operations diligently for violations. This burden should not fall on the residents' shoulders.
- Lack of mitigation for the substantial increase in heavy truck traffic on adjacent, unpaved county roads. Platte Sand and Gravel has developed no adequate plan with Weld County to assure the safety of the neighborhood roads that they travel everyday; and that are used daily by the school buses of RE-I School District.
- The proposed expansion of hours of operation does not give any consideration to the basic, human need for adequate sleep for the residents who live adjacent to this operation or live on the roads used by this operation. Heavy truck traffic 24 hours a day is a direct, offensive burden on the normalcy of their lives.
- Impacts will harm rural quality of life and will decrease property values.

The applicant must also post collateral for WCR 38 widening and improvements. The applicant has already posted \$500,000 bond as collateral. The total bond amount, according to Weld County Engineering Division Manager Perry Eisenach, is approximately \$900,000.

Planner Ortiz indicated that Staff and Planning Commission recommend approval of Platte Sand and Gravel's Use by Special Review Application for a concrete batch plant, an asphalt batch plant, and recycling equipment, subject to the following conditions:

1. Platte Sand and Gravel shall submit a Site Plan in accordance with Section 16-4-430 of the *Milliken Land Use Code*. The Site Plan shall include proof that Platte Sand and Gravel has worked with a Noise Engineer to site the batch plants in a manner that minimizes noise emissions; revised the weed management plan and obtained Weld County Public Works Department's approval of the Plan; added a berm along the north side of the site entrance to the Berming Plan and that Platte Sand and Gravel has worked with Weld County to attempt to reduce the speed limit on WCR 38.
2. Platte Sand and Gravel shall obtain building permits for the batch plants from the Town of Milliken.
3. Platte Sand and Gravel shall obtain a flood development permit and all necessary sign permits from the Town of Milliken.
4. Platte Sand and Gravel shall obtain all appropriate federal, state and local permits including, but not limited to: Air Pollution Emission Notices (CDPHE-AQCD), Spill Control and Containment Plan (US EPA), Stormwater Management Plan (CDPHE-WQCD), Individual Sewage Disposal System (Weld County DPHE), and Waste Handling Plan (WCDPHE).
5. Platte Sand and Gravel shall make the following plat note revisions:
 - ♦ Note 38: A building permit shall be obtained prior to the construction of the concrete or asphalt batch plants, shop building, office trailer and any other structure placed on the parcel including any signage. Demolition permits are required for the demolition or removal of any structure on the property. The Milliken Planning Commission and Gilcrest/Platteville Fire Protection District must approve a site plan in accordance with Section 16-4-403, before the Town will issue a building permit. The site plan shall include a berm on the north side of the access road. Platte Sand and Gravel must also provide evidence that they have posted adequate collateral with Weld County for road improvements and maintenance prior to issuance of a building permit.
 - ♦ Note 42: Platte Sand and Gravel shall give an annual presentation to the Planning Commission to update them on the operation. Details shall include: neighborhood concerns, annual production, noise emissions and reclamation. The permittee shall notify the neighbors, all landowners within 3000 feet of the property and any additional landowners that request to be notified about the date, time and location of the annual presentation. A copy of this notice and the list of people that have been notified shall be given to the Milliken Town Clerk. The permittee shall post notice in the Johnstown Breeze and the Greeley Tribune (or other Town-approved publication) at least 21 days prior to the Planning Commission meeting.
 - ♦ Note 43: Platte Sand and Gravel shall provide the Town a quarterly report documenting the results of quarterly noise emission monitoring, unless

otherwise approved by the Board of Trustees. The noise study shall be conducted by an independent, Town-approved Acoustical Engineer. The Town shall approve noise measurement locations. The noise measurements shall be taken for a minimum of a 36 hour period.

- ♦ Note 44: The Town of Milliken may revoke this Use by Special Review if Platte Sand and Gravel fails to complete paving of Weld County 38 within Weld County's recommended timeframe.
- ♦ Note 45: Landscaping improvements shall be completed to the Town's satisfaction prior to issuance of a Certificate of Occupancy for the batch plants.

Staff and the Planning Commission do not recommend extending the hauling hours beyond those permitted in the annexation agreement – 6:00 a.m. – 7:00 p.m. on weekdays, 8:00 a.m. – 5:00 p.m. on Saturdays, and no hours on Sundays.

Trustee Tokunaga asked when the bond expires, and Weld County Engineering Division Manager Perry Eisenach stated the bond will expire upon completing WCR 38 improvements and approval by Weld County.

Motion to approve Platte Sand and Gravel's Use by Special Review Application for a concrete batch plant, an asphalt batch plant, and recycling equipment was made by Mayor Pro Tem Lichtfuss, seconded by Trustee Cozad.

Discussion: Trustee Cozad stated her concern with the applicant's track record and lack of compliance since the initial application was made. She asked what the process would be if the Town's stipulations are not met, and if inspections can be done to ensure compliance. She has concern with the one year review, as that is a long time and much can happen in year. Trustee Tokunaga asked if there is staff with the expertise to check compliance. Co-interim Manager and Public Works Director Mike Woodruff ensured the Board that internal staff is capable of monitoring the applicant's compliance, and will consult with the Town Planner or Weld County, when necessary. Trustee Gary Franks asked if the road is up to date. Weld County Engineering Division Manager Perry Eisenach indicated that the applicant is not in complete compliance in terms of the road. The road is not yet widened and the complete \$900,000 bond was not posted yet. Town Planner interjected that a building permit will not be issued until the collateral is posted. Trustee Cozad also expressed her concern with the use through the zoning approved in the annexation agreement without the applicant's total compliance. She stated that the Town is not part of the agreement between the applicant and Weld County. Planner Ortiz stated that approval of the Use by Special Review would apply restrictions to Platte Sand and Gravel, more than what are currently in place. Trustee Cozad responded by saying she would like to see Platte Sand and Gravel do a better job at being a good neighbor.

Mayor Linda Measner asked if all were in favor of the motion. Trustee Frank said no, until everything is in order. Mayor Pro Tem Lichtfuss and Trustee Cozad also stated no.

Trustee Tokunaga also said no, stating he wants to see compliance, and that all commitments made by the applicant need to be followed through. No others responded.

Vote: Motion failed.

Mill Iron 5 Ranch Estate Subdivision Homeowner's Association Irrigation Water Lease Agreement 2006

Town Engineer Larry Ketcham stated the Homeowner's Association in Mill Iron 5 Ranch Estates has continued to work with the Town to ensure an adequate water supply is available for non-potable water usage. Town Engineer Ketcham estimates that water usage this year will be approximately 30 acre feet. Staff recommends that the Town lease out five shares of Seven Lakes Shares from Dave Bernhardt, as well as 40 shares of CB-T water, which Mr. Bernhardt has agreed to. The subdivision's Homeowners Association will pay the costs associated with the trade. The total payment to the Town will be \$875.00.

Motion to direct Staff and authorize the Mayor to work with Mr. Dave Bernhardt, and representatives from the Mill Iron 5 Ranch Estates Subdivision Homeowner's Association to finalize a lease of 5 shares of Seven Lakes owned by the Town, and 40 shares of C-BT owned by Mr. Bernhardt for the irrigation use of the Mill Iron 5 Ranch Estates Subdivision. The motion is contingent on the Mill Iron 5 Ranch Estates Subdivision Homeowner's Association making a payment to the Town of Milliken for \$875.00. Motion made by Trustee Frank, seconded by Mayor Pro Tem Lichtfuss.

Vote: All in favor none opposed. Motion carried.

Medicare Supplemental Insurance

Town Finance Director Diana Vasquez stated that the ordinance passed in February approves Medicare-covered employees... The ordinance went into effect April 1, 2006. An employee is requesting retroactive pay totaling \$6,642.00.

Trustee Tokunaga asked if the request was made prior to approval of the ordinance. Finance Director Vasquez stated that the request was a verbal request, and is unsure of the specific date. Trustee Tokunaga then asked if it was a normal procedure, and Finance Director Vasquez indicated that it was an administrative issue, to be taken to the Board at a later time. Mayor Pro-Tem Lichtfuss stated she is okay with retroactive payment to the first of this year since it was not budgeted for. Trustee Wakeman asked if there was reimbursement for other employees. Finance Director Vasquez answered that the Town would have paid if an employee paid out of pocket for medical procedures, if that employee was on the Town's health insurance plan.

Motion to approve health insurance premiums paid for Medicare supplemental insurance reimbursement was made by Trustee Wakeman.

Discussion: Trustee Cozad stated that since the request was granted by former Town Manager J.R. Schnelzer without the policy in place yet, the Town should reimburse the

employee. She stated that such a decision will not set precedence for others; this is a one-time occurrence because of circumstances.

Vote: Six in favor, with Mayor Pro Tem Lichtfuss opposing. Motion carried.

Call for Executive Session

Motion to go into executive session for C.R.S. 24-6-402(4)(e), for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators; made by Mayor Pro Tem Lichtfuss, seconded by Trustee Cozad.

Vote: All in favor none opposed. Motion carried.

Executive session to begin following a five minute recess. Regular meeting to reconvene following the executive session.

Adjournment

Mayor Measner adjourned the meeting at 9:05 p.m. as there was no further business.

Jessi Day, Deputy Town Clerk

Approved by the Board of Trustees

Linda L. Measner, Mayor